

## MEMORANDUM

**TO:** Acme Township Planning Commission  
**FILE NO.** 5385.45 Acme - PC Bylaws  
**FROM:** Mike Grant, Olson, Bzdok & Howard  
**DATE:** October 6, 2008  
**RE:** Proposed Acme Planning Commission Bylaws

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The Michigan Planning Enabling Act ("MPEA") requires that all planning commission have bylaws. The Commission currently has a set of Rules, which could also function as its bylaws. I have reviewed the Rules, as well as a model set of bylaws being put out by MSU Extension, and have suggested several changes be made to the Rules before they are adopted as the new Bylaws.

### **Section 2.10 Conflict of Interest**

The MPEA requires that the township board either define what constitutes a conflict of interest for purposes of the planning commission, or that the commission define it in its bylaws. Acme's Township Board adopted a conflict of interest policy in 2002 that applies to the Board as well as the Planning Commission. The policy prescribes both what constitutes a conflict, as well as the procedure for handling conflicts. The Commission's current Rules prescribe a somewhat different definition of a conflict, as well as a different procedure. I would suggest that the Bylaws simply reference the Acme conflict of interest policy so as to remove any confusion as to what controls.

### **Section 3.0 Matters to be Considered by the Planning Commission**

The authority of the Commission is defined either by the Zoning Ordinance or by statute and doesn't need to be stated in the Bylaws.

### **Section 4.2 Petition Procedures and Requirements**

I don't see any reason to have a separate process for public hearing regarding zoning amendments.

### **Section 4.4 Special Hearings**

### **Section 4.5 Actions of Commission Following Hearing**

These appear superfluous.

### **Section 7.0**

If the Commission makes Bylaws it ought to live by them.

### **Section X.Y Ex parte contact**

Suggested provision. This is not required by MPEA, MZEA, or otherwise. However, good practice of administrative law is that the deciding body not take evidence outside of the presence of possibly adverse or otherwise interested parties. See MCL 24.282.

## Acme Township Planning Commission Bylaws

The following Bylaws are adopted by the Acme Township Planning Commission ("Commission") to facilitate the performance of its duties ~~as outlined in P.A. 33 of 2008, as amended, being pursuant to~~ the Michigan Planning Enabling Act ("MPEA"), MCL 125.3801 *et seq.* These Bylaws supercede and/or repeal any prior rules or bylaws adopted by the Commission. These Bylaws are also adopted to facilitate the duties of the Commission in its administration of the zoning ordinance pursuant to the Michigan Zoning Enabling Act, MCL 125.3101 *et seq.*

### Section 1.0: Officers

1.1 **Selection.** At the regular meeting in July of each year, the Commission shall select from its membership a Chairperson, Vice-Chairperson, and Secretary. All officers are eligible for re-election.

1.2 **Tenure.** The Chairperson, Vice-Chairperson, and Secretary shall take office immediately following their selection and shall hold office for a term of one year or until their successors are selected and assume office, or until they are removed for misfeasance, malfeasance, or nonfeasance by the Township Board.

1.3 **Duties of the Chairperson.** The Chairperson shall preside at all meetings, appoint committees and advisory committees, authorize calls for special meetings, shall execute documents in the name of the Commission, prepare an agenda of items, to be considered at each Planning Commission meeting (for the Secretary of the Planning Commission), and perform such other duties as may be ordered by the Commission.

1.4 **Duties of the Vice-Chairperson.** The Vice-Chairperson shall act in the capacity of Chairperson in their absence and in the event the office of Chairperson becomes vacant, the Vice-Chairperson shall succeed to this office for the unexpired term, and the Commission shall select a successor to the office of Vice-Chairperson for the unexpired term. The Vice-Chairperson shall perform such duties as the Commission may determine.

### 1.5 Duties of the Secretary

(1) **Minutes.** Minutes shall be kept of each meeting showing the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. The minutes shall include all roll call votes taken at the meeting. Corrections in the minutes shall be made not later than the next meeting after the meeting to which the minutes refer. Corrected minutes shall be available no later than the next subsequent meeting after correction. The corrected minutes shall show both the original entry and the correction.

(2) **Recordings.** All meeting and study sessions shall be recorded on tape.

(3) **Notice of Regular Meetings.** There shall be posted, within 10 days after the first meeting of the Commission in each calendar, or fiscal, year, public notice stating the dates, times and places of its regular meetings for that year.

(4) **Special Meetings.** The Secretary shall provide for notice to each Commission member of the time, place, and purpose of special meetings at least 48 hours prior to such meetings. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his/her address as it appears in the Township records.

(5) **Staff Assistance.** The Secretary may be assisted by Commission staff in all tasks set out in the section as may be agreed upon from time to time between the Commission and its Staff.

1.6 **Resignation from an office.** Any officer of the Commission may resign their office at any time by giving written notice to the Commission. The Commission shall elect a replacement to complete the remainder of the officer's term.

1.7 **Resignation from the Planning Commission.** Any member may resign from the Planning Commission by submitting a letter of resignation to the Township Board.

## **Section 2.0: Meetings**

2.1 **Regular Meetings.** Commission meetings will ordinarily be held the last Monday of each month at 7:00 p.m. in the Township Hall, provided there is sufficient business to come before the Planning Commission at that time. The Commission shall hold not less than four regular meetings each year. When the regular meeting day falls on a legal holiday, the Commission shall select a suitable alternative meeting day in the same month.

2.2 **Special Meetings.** Special meetings shall be called at the request of the Chairperson, or by two members of the Commission.

2.3 **Study Meeting.** To facilitate the detailed study of rezoning petitions, subdivision plats and other planning matters, the Commission from time to time may hold study meetings. Such meetings shall be for information and educational purposes and shall not require a quorum unless official action is to be taken.

2.4 **Michigan Open Meetings Act.** All meetings shall be noticed and conducted in accord with the Michigan Open Meetings Act, Public Act 267 of 1976, as amended.

2.5 **Quorum.** A majority of the total number of Commissioners shall constitute a quorum for the transaction of business and the taking of official action. The affirmative vote of a majority of the total Commission shall be necessary for the adoption of any part of a general development plan. Whenever a quorum is not present at a regular or special meeting, those present may adjourn the meeting to another day or hold the meeting for the purpose of considering such matters as are on the agenda. No action taken at such a meeting shall be final, or official.

2.6 **Notification of intended absences.** If a Commission member is unable to attend a meeting they should notify the Secretary or the Township ~~Manager~~ Planner as far in advance as possible.

2.7 Order of Business. The Secretary may prepare an agenda for each meeting and the order of business therein may be as follows:

- (1) Call to Order
- (2) Roll Call
- (3) Conflict of interest inquiry
- (4) Approval of Agenda
- (5) Consent calendar
- (6) Correspondence
- (7) Limited Public Comment
- (8) Preliminary Hearings
- (9) Public Hearings
- (10) Old Business
- (11) New Business
- (12) Public Comment
- (13) Adjournment

2.8 Motions. The name of the originator of a motion and its second shall be recorded.

2.9 Voting. Voting shall be by voice and shall be recorded by "yes" and "no." Roll call votes will be recorded only upon request by a member of the Commission or upon the advice of the Township's Attorney.

2.10 Conflict of Interest. Members of the Commission shall avoid conflicts of interest. The Commission shall employ Acme's Conflict of Interest Policy to determine whether such a conflict exists and how to handle it.

2.11 Attendance. If any member of the Commission is absent from three consecutive regularly scheduled meetings, then that member shall be considered delinquent. Delinquency may be grounds for the Township Board to remove any member for nonperformance of duty or misconduct. The elected secretary, or acting secretary in the absence of the elected secretary, shall keep attendance records of the Commission. The Secretary shall inform the Township Board, in writing, of any delinquencies.

~~Section 3.0: Matters to be Considered by the Planning Commission~~

~~3.1 Development Matters. The following development matters shall be suitable subjects for consideration at meetings of the Planning Commission:~~

~~(1) Petitions and administrative proposals for changes in the zoning ordinance.~~

~~(2) All preliminary plans and reports for the physical development of the Township, including a land use plan and program and the general location, character, and extent of streets, roads, highways, railroads, bridges, waterways, and waterfront developments; flood prevention works, drainage, sanitary sewers and water supply systems, works for preventing pollution and works for maintaining water levels; and public utilities and structures.~~

~~(3) The removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any public way, grounds, open spaces, buildings, utilities or other facilities.~~

~~(4) All planning reports and plans before publication.~~



~~(5) Capital improvement programs for the Township.~~

~~(6) Planning Commission budget requirements for the fiscal year and request for appropriations.~~

#### **Section 4.0: Hearings**

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~~4.1 Development Plan and Zoning Hearing. Shall be held in accordance with PA 84 of 1943, as amended.~~

~~4.2 Petition Procedures and Requirements. Petitions for a Zoning Change shall be filed on a "Petition for Zoning Change" form supplied by the Township. Prior to any action taken by the Commission, the Petition must be fully completed and signed by all property owners or their authorized representatives and submitted to the Zoning Administrator, accompanied by the filing fee. Rezoning requests shall be handled in the following manner:~~

~~(1) Following the receipt of a complete Petition at a regular meeting:~~

~~a. The Petitioner may (optional, but recommended) state the proposal and present the proper documents required to accompany the Petition for Zoning Change.~~

~~b. Each Planning Commission member may have an opportunity to question the applicant for clarification of the request.~~

~~(2) The Planning Commission shall take action on the Petition at its next regular meeting. Such action will be consistent with Section 3.1 above. The Petitioner may be entitled to a prompt Public Hearing if the following have been furnished:~~

~~a. Petition for Zoning change is fully completed.~~

~~b. Filing fee has been paid.~~

~~c. All required documents are completed.~~

~~d. All required permits or approvals from others have been obtained.~~

~~If the Petitioner does not have all documents, permits, approvals, etc. in items (2)c and (2)d above, then the Planning Commission may in its sole discretion, delay or schedule a Public Hearing.~~

~~Should the Planning Commission determine that a public hearing should be held on the Petition for Zoning Change, the procedures listed below may be followed.~~

#### **4.3 Procedure for Public Hearings.**

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~~(1) Secretary reads applicant's request (summarize if lengthy).~~

~~(2) Township Attorney (Secretary in their absence) reports date of public notification and paper in which published. Also report the notification of nearby property owners within 300 feet.~~

(3) Chairperson announces order of hearing, as follows: ~~(optional)~~

- ~~a. Applicant or representative presents request including reasons, information and data supporting request.~~
- ~~b. Review and recommendations by Township Planner.~~
- ~~c. Questions from Planning Commission.~~
- ~~d. Responses by professionals and/or applicant.~~
- ~~e. Open hearing for public comments.~~
- ~~f. Close hearing to public comments.~~
- ~~g. Consideration of action by Planning Commission.~~

(4) Applicant or representative presents request including reasons, information, and data supporting request.

- ~~(5) Review and recommendation by Township Planner.~~
- ~~(6) Questions from Planning Commission.~~
- ~~(7) Responses by professionals and/or applicant.~~

(8) Chairperson gives public comment rules as follows: (optional)

- a. Please address all comments to the chair.
- b. Please stand and give your name and address.
- c. Please be as concise and as factual as possible.
- d. Please be courteous and do not cheer or boo comments by others.
- e. Everyone will have an opportunity to be heard; however, the chair may establish time limits to permit the orderly conduct of business. Second comments will not be permitted until every person has had a chance to speak for the first time.
- f. Remember that this hearing is being recorded as well as minutes being taken. ~~We are an advisory body and make recommendations only. The Acme Township Board makes the decisions. We are public servants and try to base our recommendations on findings of fact and accepted principles of planning.~~

(9) Chairperson opens hearing for public comments (note time.)

~~(10) Secretary receives, for official record, any letters and/or petitions regarding applicant's request. Secretary reads or summarizes these materials.~~

(11) Chairperson closes hearing to public comments (note time.)

(12) ~~Further~~ Questions and deliberation by Planning Commission.

(13) Action by Planning Commission.

~~4.4 Special Hearings. Notice of special hearings for the purposes of presenting preliminary general development plans, obtaining public opinion on a problem, or discussion of a particular problem with interested parties, will be given in the most practical manner and to persons or group representatives most interested.~~

~~4.5 Actions of Commission Following Hearing. At the conclusion of the public hearing of a zoning petition, the Planning Commission may take any action allowed by law including, but not limited to one of the following actions:~~

~~(1) Approval.~~

~~(2) Approval with Conditions.~~

~~(3) Denial.~~

~~(4) Continue to Future Meeting.~~

~~(5) Take no Action (applies to zoning change requests only.)~~

#### ~~Section 5.0: Re Submission of Petitions for Zoning Change.~~

~~The Planning Commission, in its sole discretion, has the authority to not reconsider any request on which a negative decision has been rendered within one (1) year from the date of the Planning Commission's recommendation on the request unless it can be shown, by the petitioner, that substantial new information affecting the request, which was not presented to the Commission at the previous hearing(s), is now available and would affect the original recommendation rendered. Said substantial new information shall be described in writing by the applicant at the time of application. Before rehearing the request, the Commission may decide whether there is substantial new information allowing the hearing.~~

#### Section 6.0: Amendments.

6.1 Procedure. These rules may be amended or modified provided that such amendment or modification is presented in writing at a regular meeting, and that favorable action is taken thereon at a subsequent regular meeting by a minimum of four (4) of seven (7) votes of five members of the the total Commission.

~~6.2 Suspend Rules. Four (4) members of a seven (7) member Planning Commission, by due motion and recorded vote, may suspend or vary the application of these rules to a particular application, case, problem or proceeding pending before the Planning Commission.~~

#### Section 7.0:

~~These Rules of the Planning Commission are procedural only. These Rules of the Planning Commission do not create any substantive rights for any applicant or member of the public. These Rules of the Planning Commission do not create any rights in applicants, members of the public or any other persons~~



~~or entity, should these Rules of the Planning Commission not be followed by the Planning Commission.~~

Section X.Y Ex parte contact

1. Members shall avoid ex parte contact about cases where an administrative decision is before the Commission whenever possible. Ex parte contact is defined for purposes of these Bylaws as any substantive interaction between a member of the Commission and any other person regarding an administrative matter pending before the Commission.

2. Despite one's best efforts it is sometimes not possible to avoid ex parte contact. When that happens, the member should take detailed notes on what was said and report to the Commission at a public meeting or hearing what was said, so that every member and other interested parties are made aware of what was said.



## Sharon Vreeland

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**From:** Michael C. Grant [Mike@envlaw.com]  
**Sent:** Monday, October 20, 2008 11:16 AM  
**To:** Sharon Vreeland  
**Subject:** RE: Acme: proposed DRAFT PC bylaws

Good idea.

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**From:** Sharon Vreeland [mailto:SVreeland@acmetownship.org]  
**Sent:** Monday, October 20, 2008 11:03 AM  
**To:** Michael C. Grant  
**Subject:** RE: Acme: proposed DRAFT PC bylaws

If I add my e-mail, can I also add your reply below to the packet?

Sharon E. Vreeland, Township Manager  
Acme Township  
6042 Acme Road  
Williamsburg MI 49690  
231-938-1350 Ext. 14  
231-938-1510 (fax)  
svreeland@acmetownship.org

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**From:** Michael C. Grant [mailto:Mike@envlaw.com]  
**Sent:** Monday, October 20, 2008 10:46 AM  
**To:** Sharon Vreeland  
**Cc:** John Hull; Ruth Ann Liebziet; Chris Bzdok; wjktcm@gmail.com; mvermetten@bfarlaw.com  
**Subject:** RE: Acme: proposed DRAFT PC bylaws

Sharon,

My thoughts below and I would suggest putting your email in the PC's packet.

### 1.5(2)

The bylaws don't require retaining the tapes but, as long as it would be in compliance with the document retention policy, I see no problem having the bylaws say that the recordings may be destroyed as you suggest.

### 2.7

The current ZO is vague on when the application should leave staff and go to the PC. This was tightened up in the content neutral re-write, which now says explicitly that the ZA has to find that the application is complete before it going on to the PC. I think it would be best to spell out this process in the ZO, and in the ZO only, for reasons including it is the document that the public is most familiar with. So no surprises.

### 2.5

OMA doesn't require minutes for meetings where there isn't a quorum (technically that isn't even a "meeting" for purposes of OMA). So if Wayne doesn't want there to be minutes under those circumstances then that's fine with me. You raise a good question of "so what should/can the PC be doing if there's no quorum and nobody is taking minutes?" Probably would be best for everybody to go home at that point, because there will be no record for the public to refer to of whatever discussion the PC does happen to have.



Also, attached please took a look at the attached sample bylaws that MSU is putting out. There's way more detail in those than in the ones that I've drafted. That's because there's a ton of stuff that in there that isn't required by the MPEA or MZEA to be in the bylaws. What's required by statute is covered in what I proposed. But maybe the PC would like to review the sample regardless to see what some other options there are for bylaw provisions.

Mike

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**From:** Sharon Vreeland [mailto:SVreeland@acmetownship.org]

**Sent:** Monday, October 20, 2008 9:43 AM

**To:** Michael C. Grant; John Hull; Ruth Ann Liebzeit; Chris Bzdok; wjktcm@gmail.com; mvermetten@bfarlaw.com

**Subject:** FW: Acme: proposed DRAFT PC bylaws

Things look generally good to me, although I have one key suggestion, one minor suggestion/observation and a question. Perhaps both need to be topics of discussion at the meeting, or perhaps not.

**Key suggestion – 1.5(2)**

The state records retention policy applicable to us states that recordings of meetings, if made, need only be kept until the minutes of the meeting are approved and may then be tossed. As long as I've been around we've retained recordings permanently. The number of old (deteriorated) cassette tapes, CDs and computer files is staggering. Very rarely have I needed to go back to a recording after the minutes are approved, and only once have I had to go back any number of years (to a cassette tape so deteriorated it was useless.) So, perhaps we could discuss adding to the bylaws that the recordings may be destroyed after the minutes of the meeting are approved?

**Minor suggestion/observation – 2.7:**

Order of business – generally looks good – I assume Mike copied from one of our agendas. I noted the word “may” be as follows, which I interpret to mean that if it seems prudent the staff would be free to do as it often does, and rearrange things to facilitate meeting attendance when there are schedule conflicts, or to put something “big” at the front end so most people can leave if they want without sitting through everything to get to what they want?

The minor suggestion has to do with whether we want public hearings before preliminary hearings, or new business before old.

Actually this reminds me: where do we address the part where applicants don't get to a Commission meeting until staff reviews the submission and confirms that all of the required elements have been provided? Should that be in our ordinance or in here, or both? We've been accommodating on this front to the point where things have grown inefficient and frustrating for everyone. For instance, permitting people to wait until PH (or later, sadly) to get required agency approval letters. And, when an applicant balks at a requirement they have grown accustomed to pleading their case to the PC to try to get around staff enforcement of the requirements. I think this is why some things drag out meeting after meeting to the point of a year or more lately (Bates Crossings certainly comes to mind). I think that in the end we might all be happier if we tighten this up again, and now when everything is being reorganized might be a good time.

Of course, I might be alone in this thought...and I certainly defer to the group consensus. But, if consensus tends to agree, are there any barriers to implementation I need to know about and see if I can fix? Is there a perceived problem or lack of faith in staff to handle applicants fairly and properly, nicely but efficiently and with the township's best interest in mind, according to the ordinance to ensure that complete material arrives at the commission, ready for speedy deliberation and dispensation once it does? If so, let's talk about and fix it so everyone is comfortable enforcing it with applicants moving forward.

**Question – 2.5 (quorum):**

This section says that a simple majority is a quorum, that a majority of total membership must vote one way to take action (not just a majority of those present) and that if a quorum is not present the meeting may be adjourned or the meeting may be held to discuss things but no final action can be taken. It's this last part that I'm not certain how to handle.

I know that Wayne has made it clear that if no quorum is present for a public meeting no official meeting is occurring and no minutes are to be taken. How does this work with the "can discuss but not take action" part? Does this suggest that we are saying that an official meeting with minutes can be held and anything can happen that would normally happen EXCEPT a motion?

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**From:** Michael C. Grant [mailto:Mike@envlaw.com]  
**Sent:** Monday, October 06, 2008 5:16 PM  
**To:** Sharon Vreeland; John Hull  
**Cc:** Chris Bzdok; Ruth Ann Liebziet  
**Subject:** Acme: proposed DRAFT PC bylaws

Sharon and John,

Attached find drafts of PC bylaws and a memo re same. Please give me your thoughts on both. The PC could move to adopt these after the TB passes the MPEA PC ordinance. Thanks.

Mike

Michael C. Grant  
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**IMPORTANT NOTICE:** The information contained in this e-mail transmission is intended only for the use of the addressee. Its contents may be privileged, confidential, and exempt from disclosure under applicable law. If you have received this e-mail in error, please delete it or contact the sender at Olson, Bzdok & Howard, P.C., at (231) 946-0044.



# Land Use Series

May 1, 2008

## # 1E:

## Sample Bylaws for a Planning Commission

Bringing  
Knowledge  
to Life!

*"Thirty seven million  
acres is all the Michigan  
we will ever have."*

Former Governor  
William G. Milliken

Michigan State University  
Extension Land Use Team

<http://ntweb11a.ais.msu.edu/luaoe/index.asp>

*MSU is an affirmative-  
action, equal-opportunity  
institution. Michigan State*

This is a presentation of one sample of bylaws for adoption by a Planning Commission in Michigan. This sample is based on Michigan Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et seq.*), and recommendations of the author and reviewers of this pamphlet (see box, below).

The Michigan Planning Enabling Act is a new statute that changes how various planning procedures are done, and provides new duties and power to many planning commissions in the state. The purpose of this act was to create a single set of procedures to follow regardless of whether planning is being done by a city, village, township, or by a county. After September 1, 2008 (the effective date of the act) only the procedures in the Michigan Planning Enabling Act should be used, as the act replaces the following statutes:

- P.A. 285 of 1931, as amended, (being the Municipal Planning Act, M.C.L. 125.31 *et seq.*)
- P.A. 282 of 1945, as amended, (being the County Planning Act, M.C.L. 125.101 *et seq.*)
- P.A. 168 of 1959, as amended, (being the Township Planning Act, M.C.L. 125.321 *et seq.*)

One of the features of the new act was to require a much more comprehensive set of bylaws for a planning commission. For example, the act makes reference to bylaws several times:

- "The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the planning commission" §15(9).
- "Unless the legislative body, by ordinance, defines conflict of interest for the purposes of this subsection, the planning commission shall do so in its bylaws" §15(9).

### Author:

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The author would like to thank the following  
members of the MSU LAND USE TEAM for their  
review and assistance with this publication:

- Jason Ball, MSU GRADUATE STUDENT
- Brad Neumann, LAND POLICY EDUCATOR, St Joseph County;
- Jasneet Sharma, LAND POLICY EDUCATOR, Hillsdale and Lenawee Counties;
- Lincoln Sweet, MSU GRADUATE STUDENT



- "The term of each officer shall be 1 year, with opportunity for reelection as specified in **bylaws** adopted under section 19" §17(1).
- "A planning commission **shall adopt bylaws** for the transaction of business . . ." §19(1).
- "Unless the **bylaws** provide otherwise, a special meeting of the planning commission may be

called by the chairperson or by 2 other members . . ." §21(1).

- "Unless the **bylaws** provide otherwise, the secretary shall send written notice of a special meeting to planning commission members not less than 48 hours before the meeting" §21(1).

## Related Publications

There are also separate procedural checklists for performing other planning and zoning functions. They are:

- *Land Use Series*: "Check List #1A; To Create a Planning Commission or Amend an Existing Planning Commission Ordinance."
- *Land Use Series*: "#1B; Sample Ordinance to create a planning commission"
- *Land Use Series*: "#1C; Summary of changes between new Michigan Planning Enabling Act and the three old planning acts: Municipal Planning Act, County Planning Act, and Township Planning Act."
- *Land Use Series*: "Checklist #1D; Steps to Transition an Existing Planning Commission to Comply with the Michigan Planning Enabling Act"
- *Land Use Series*: "#1E; Sample Bylaws for a planning commission."
- *Land Use Series*: "Checklist #1F; What Should be in a Master Plan"
- *Land Use Series*: "Checklist #1G; For Adoption of a Plan in Michigan"
- *Land Use Series*: "Checklist #1H; The Five Year Plan Review."
- *Land Use Series*: "Checklist #1I; For Adoption of an Amendment to a Plan"
- *Land Use Series*: "Checklist #1J; Adopting and Updating a Capital Improvement Program"
- *Land Use Series*: "Checklist #1K; Review of Infrastructure and Public Capital Expenditure"
- *Land Use Series*: "Checklist #1L; Adoption or Amendment of Subdivision Rules"
- *Land Use Series*: "#1M; How Governments Make Submissions on a Neighbor's or County's Proposed Plan"
- *Land Use Series*: "#1N; How a Planning Commission Should Respond to Submissions"
- *Land Use Series*, "Checklist #2; for Adoption of a Zoning Ordinance in Michigan."
- *Land Use Series*, "Checklist #3; for Adoption of an Interim Zoning Ordinance in Michigan."
- *Land Use Series*, "Checklist #4; for Adoption of a Zoning Ordinance Amendment (Including PUD) in Michigan"
- *Land Use Series*, "Checklist #5; for Processing a Special Use Permit (Including PUD) Application in Michigan."
- *Land Use Series*, "Checklist #6; for Processing a Zoning Appeal and Variance in Michigan."

All of these are available at [www.msue.msu.edu/lu/](http://www.msue.msu.edu/lu/).

## Glossary

The following terms are used in this publication, and have the following specific meanings.

**§** means the section number of Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et seq.*).

**Chief administrative official** means the manager or other highest nonelected administrative official of a city or village.

**Chief elected official** means the mayor of a city, president of a village, supervisor of a township, or chair of a county board of commissioners.

**Ex officio member** means a member of a planning commission, with full voting rights unless otherwise specified by city or village charter, by virtue of holding another office for the term of that office.

**Legislative Body** means the county board of commissioners of a county, the board of trustees of a township, the council of a city or village, or other similar elected governing body of a county, township, city, or village.

**Local Unit of Government** means a county or municipality.

**Municipality** means a city, village or township.

**Plan** means any plan adopted under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.

**Planning Commission** means the local unit of government planning commission created under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.

**Planning jurisdiction** means the area encompassed by one of the following:

- For a city or village, the legal boundaries of a city or village, respectively, and any area outside of the city or village boundary that the planning commission deems related to the planning of the city or village;
- For a township, the legal boundaries of a township outside the limits of a city(ies) and village(s);
- For a township who's planning commission was formed under P.A. 285 of 1931, as amended, (M.C.L. 125.31 *et seq.*), the legal boundaries of a township outside the limits of a city(ies) and village(s), and any area outside of the township boundary that the planning commission deems related to the planning of the township. (See §31(1)(b))
- For a county, the legal boundaries of a county outside the limits of a city(ies) and village(s); or the county including any city(ies) and village(s) which has adopted the county plan (See §31(1)).

- “A planning commission may adopt **bylaws** relative to compensation and expenses of its members and employees for travel when engaged in the performance of activities authorized by the legislative body, including, but not limited to, attendance at conferences, workshops, educational and training programs, and meetings” §23(1).

In addition to the above, there are also indirect references to bylaws throughout the act.

For any step in the process of reviewing bylaws and facilitating the discussion and decisions about how your bylaws are written, your county Michigan State University Extension can assist, or can contact members of the MSU Extension Land Use Team for assistance.

This pamphlet is not designed as a substitute for reading and understanding the Michigan Planning Enabling Act. This outline is not a substitute for

legal advice or for professional planner services.

The following represents one sample set of bylaws for a planning commission in Michigan. These are written in an attempt to cover most needs that may occur. Before adoption they should be reviewed, and sections which are not pertinent omitted. In the sample bylaws, below, text which appears in brackets ( [ ] ) should be replaced with the specific name, number, or date as indicated. Material in a sidebar, or box, includes additional discussion and alternatives to consider.

These sample bylaws are also available in a separate word processor document (Microsoft Word™ and WordPerfect™) at the website [www.msue.msu.edu/lu](http://www.msue.msu.edu/lu). The material in sidebars, or boxes, in this pamphlet are not in the word processor version of the sample bylaws.

## PLANNING COMMISSION BYLAWS of [date]

Adopted, effective immediately, [date, time]  
As amended through \_\_\_\_\_

### 1. **Name Purpose**

- A. The name shall be the [local unit of government] Planning Commission, hereafter known as the "Commission".
- B. These Bylaws are adopted by the Commission to facilitate the performance of its duties as outlined in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, (M.C.L. 125.3801 *et seq.*), hereinafter "the Planning Act."
- C. These Bylaws are also adopted to facilitate the duties of the Commission for administration of a zoning ordinance as outlined in P.A. 110 of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 *et seq.*), hereinafter "the Zoning Act."

### 2. **Membership**

- A. **Members.** Members of the Commission are appointed by the [legislative body] pursuant to the [local unit of government] Planning Commission Ordinance of [date], as amended.
  1. First priority, each member shall represent and advocate what is best for the [local unit of

#### **Adopt bylaws**

"A planning commission shall adopt bylaws for the transaction of business . . ." §19(1).

#### **The Zoning Act**

If the planning commission does not have zoning responsibilities, then section 1.C. of the Bylaws should be deleted.

#### **Membership of the Commission.**

Membership of the Commission should be reviewed and edited carefully. This sample is written assuming membership of the Commission represents specific topical interests, and is nominated by organizations representing those interest groups. It should be edited so it reflects the membership established in the local unit of government's ordinance creating the planning commission.

- government] as a whole, putting aside personal or special interests.
2. Second priority, each member shall represent a separate important segment of the community, as appointed by the [legislative body]:
    - a. One citizen at-large member.
    - b. One citizen member representing environmental interests: Attend and/or be familiar with the desires and needs of the environmental organizations in [local unit of government] (including but not limited to conservation clubs, garden clubs, lake and river landowner associations and the Michigan Department of Environmental Quality land and water programs).
    - c. One citizen member representing agriculture, forestry, and land use interests: Attend and/or be familiar with the desires and needs of the Farm Bureau, Soil Conservation District, Michigan Department of Natural Resources Forestry Division, United States Forest Service, Resource Conservation and Development Council, municipal planning and/or zoning boards.
    - d. One citizen member representing governmental municipal interests: Attend and/or be familiar with the desires and needs of the county chapter of the Michigan Townships Association, cities and villages, and county government.
    - e. One citizen member representing education interests: Attend and/or be familiar with the desires and needs of the local school districts, intermediate school district, College, University, MSU Extension, and other educational institutions.
    - f. One member representing recreation and tourism interests: Attend and/or be familiar with the desires and needs of the tourist division of the Chamber of Commerce, visitor/convention bureau, hotel/motel tourist business owners; recreation associations; civic and social organizations; the arts; snowmobile and other recreation clubs; Michigan Department of Natural Resources Parks Division, Recreation Division, and Waterways Division.
    - g. One citizen member representing industrial and economic interests: Attend and/or be familiar with the desires and needs of industrial associations, the Chamber of Commerce, economic development corporations, organized labor, and trade associations.
    - h. One member representing transportation and communication interests: Attend and/or be familiar with the desires and needs of the County Road Commission, village and city road agencies, telephone companies, Internet providers, postal and other parcel delivery services, news media, mass/bus transportation systems, airports, and harbors.
    - i. One member representing sanitation, environmental health, housing, and human services interests. Attend and/or be familiar with the desires and needs of public utility providers, water and sewer providers, the County Health Department, councils on aging, and human services collaborative bodies.
    - j. One member shall be a member of the [legislative body]: Attend and/or be familiar with the desires and needs of the [legislative body] and its committees; adjacent legislative bodies and their planning commissions, and regional multi-county planning agency.
  - B. Liaisons. The purpose of liaisons is to provide certain [local unit of government] officials and quasi-officials the ability to participate in discussions with the Commission, in addition to speaking in public participation, and nothing else. Liaisons cannot vote, introduce motions, initiate any other parliamentary action, be counted for a quorum or be expected to comply with attendance requirements pursuant to Section 2.C of these bylaws. Liaisons, if not already appointed Commission members, are:
    1. Planning Department staff, and their agents and consultants.
    2. The Commission's consultants.
    3. [local unit of government] Attorney.
    4. [local unit of government] engineering, water, sewer, DPW, or similar department heads.
    5. [local unit of government] attorney and corporate council.
    6. [local unit of government] Administrator.
    7. Chairman of the [legislative body].
    8. Manager of the County Road Commission and village or city road agency.
    9. The county Emergency Management Coordinator.
    10. The county Soil Erosion and Sedimentation Control Officer.
    11. District Health Department senior or supervisory Registered Sanitarian.

#### **Liaison Members.**

This section should be reviewed carefully. Review the list to insure there are not any additions or deletions.

12. The County Surveyor, except when the issue before the Commission is to review his, or his client's work.
  13. The County Register of Deeds.
  14. The County Extension Director.
  15. The County Soil Conservation Service Soil Conservationist.
  16. Regional (multi-county) Planning Staff.
- C. Attendance. If any member of the Commission is absent from three consecutive regularly scheduled meetings, then that member shall be considered delinquent. Delinquency shall be grounds for the [legislative body] to remove a member from the Commission for nonperformance of duty, or misconduct, after holding a public hearing on the matter. The Commission secretary, or acting secretary in the absence of the elected secretary, shall keep attendance records and shall notify the [legislative body] whenever any member of the Commission is absent from three consecutive regularly scheduled meetings, so the [legislative body] can consider further action allowed under law or excuse the absences.
- D. Training. Each member shall have attended at least four hours per year of training in planning and zoning during the member's current term of office. If so provided in the ordinance creating the Commission, failure to meet the training requirements shall result in the member not being reappointed to the Commission. Training shall be provided by one or more of the following organizations: Michigan Association of Planning, Michigan State University Extension, Michigan Townships Association, Michigan Municipal League, continuing education programs of Michigan State University, University of Michigan, Northern Michigan University, Central Michigan University, or Wayne State University.
- E. Incompatibility of Office.
1. Each member of the Commission shall avoid conflicts of interest and/or incompatibility of office. As used here, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:
    - a. Issuing, deliberating on, voting on, or reviewing a case concerning him or her.
    - b. Issuing, deliberating on, voting on, or reviewing a case concerning work on land owned by him or her or which is adjacent to land owned by him or her.
    - c. Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership, or any other entity in which he or she is a part owner, or any other relationship where he or she may stand to have a financial gain or loss.
    - d. Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a pecuniary benefit to him or her.

### **Training**

The ordinance creating the planning commission should include a requirement that training is required to be eligible for reappointment. Details on how that is done should be in the bylaws.

### **The Statute Requires:**

"The member is disqualified from voting on the matter if so provided by the **bylaws** or by a majority vote of the remaining members of the planning commission" §15(9).

"Unless the legislative body, by ordinance, defines conflict of interest for the purposes of this subsection, the planning commission shall do so in its **bylaws**" §15(9).

### **Adjacent Land and Conflict of Interest**

Some thought should be given to how far away from one's own property one goes to consider it to be a conflict of interest. In a very small community, with a large distance from the property, it may be hard to ever have a situation which is not a conflict for a number of members of the Commission. This practical matter should be balanced with the need to avoid the appearance of conflict and actual conflicts.

Courts have only gone as far as the adjacent parcel, and do not consider it a conflict beyond that. Some communities have used a "within 300 feet" standard (the same distance where notices are required).



- e. Issuing, deliberating on, voting on, or reviewing a case concerning his or her spouse, children, step-children, grandchildren, parents, brothers, sisters, grandparents, parents in-law, grandparents in-law, or members of his or her household.

- f. Issuing, deliberating on, voting on, or reviewing a case where his or her employee or employer is:

- (1) an applicant or agent for an applicant, or

- (2) has a direct interest in the outcome.

- 2. If there is a question whether a conflict of interest exists or not, the question shall be put before the Commission. Whether a conflict of interest exists or not shall be determined by a majority vote of the remaining members of the Commission.

- 3. When a conflict of interest exists, the member of the Commission, or committee, shall do all of the following immediately, upon first knowledge of the case and determining that a conflict exists:

- a. declare a conflict exists at the next meeting of the Commission or committee:

- b. cease to participate at the Commission or committee meetings, or in any other manner, or represent one's self before the Commission, its staff, or others, and

- c. during deliberation of the agenda item before the Commission or committee, leave the meeting or remove one's self from the front table where members of the Commission sit, until that agenda item is concluded.

- 4. If a member of the Commission is appointed to another office, which is an incompatible office with his or her membership on the Commission, then on the effective date of the appointment to the other office, that shall result in an automatic resignation from the Commission. If a member of another office is appointed to the Commission, which is an incompatible office with his or her membership in the other office, then on the effective date of the appointment to the Commission, that shall result in an automatic resignation from the other office.

### 3. Duties of all members.

#### A. *Ex Parte* contact

- 1. Members shall avoid *Ex Parte* contact about cases where an administrative decision is before the commission whenever possible.

- 2. Despite one's best efforts it is sometimes not possible to avoid *Ex Parte* contact. When that happens, the member should take detailed notes on what was said and report to the Commission at a public meeting or hearing what was said, so that every member and other interested parties are made aware of what was said.

#### B. Site Inspections

- 1. Site inspections shall be done by the zoning administrator or other staff. A written report of the site inspection shall be orally presented to the Commission at a public meeting or hearing on the site.
- 2. If desired, no more than one member of the Commission may accompany the zoning administrator or staff on a site inspection.

#### C. Not Voting On the Same Issue Twice.

### Family and Conflict of Interest

Some thought should be given to how expansive, or limited is the list of who is included in "family". In a very small community, with an expansive list of family, it may be hard to ever have a situation which is not a conflict. This practical matter should be balanced with the need to avoid appearance of and actual conflicts.

### *Ex Parte* Contact

There are several different ways to handle *Ex Parte* Contact. The goal is that private conversations outside of a public meeting do not take place with members of the Commission. And if that does happen, then have a means to share the content of the conversation with everyone involved, so everyone knows what was said and those that wish to can provide a rebuttal.

### Site Inspections

There are many alternative ways for site inspections to be handled. Some communities have the entire Commission do a site inspection as a group. If that is done the site inspection must be posted as a public meeting and there must be accommodations for the audience to also come along. What is important is that the bylaws spell out how it will be done in your community.

1. Any member of the Commission shall avoid situations where they are sitting in judgement and voting on a decision which they had a part in making. As used here, sitting in judgement and voting on a decision which they had a part in making, at a minimum shall include, but not necessarily be limited to, the following:
  - a. When the appeal is of an administrative or other decision by Commission and the member of the Commission sits both on the Commission and Zoning Board of Appeals.
  - b. When the appeal is of an administrative or other decision by any committee of the Commission, [legislative body], or other committee and the member of the Commission sits both on that committee and Zoning Board of Appeals or both on the Commission and Zoning Board of Appeals.
  - c. When the case is an administrative decision which was decided by the Commission and sent to the [legislative body] for further action, and the member of the Commission sits both on the Commission and [legislative body].

**D. Accepting gifts.**

1. Gifts shall not be accepted by a member of the Commission or liaisons from anyone connected with an agenda item before the Commission.
2. As used here, gifts, shall mean cash, any tangible item, or service, regardless of value; and food valued over \$10.
3. This section does not apply to the Commission accepting gifts for the exercise of its functions pursuant to M.C.L. 125.3823(3), §23(3) of the Planning Act.
4. In townships gifts shall only be accepted by the township board on behalf of the planning commission.

**E. Spokesperson for the Commission.**

1. Free and open debate should take place on issues before the Commission. Such debate shall only occur at meetings of the Commission.
2. Once a vote is taken and an issue is decided by vote, the duty of each member of the Commission is to represent the position reflected by the outcome of the vote. Minority reports and requests for reconsideration may take place only at an open meeting of the Commission.

3. From time-to-time, or on a specific issue the Commission may appoint a spokesperson for the Commission for all matters which occur outside of the meetings of the Commission..

**F. Code of Conduct..** Each member, upon appointment, shall sign a code of conduct.

**Accepting Gifts**

There are many alternative ways for how to handle members of the planning commission receiving gifts. There is not a "right" or a "wrong" way to do it. It is important this is discussed and the bylaws spell out the rules to which your commission agrees. Consider that it may be okay for small gifts to be received (a box of candy for example), but not something that might be viewed by the public as a bribe.

Concerning section 3.D.4.: This subsection is not needed and should be deleted from bylaws for a city, village, and county planning commission, and for townships with a planning commission created under the Municipal Planning Act (P.A. 285 of 1931).

**Code of Conduct**

A sample code of conduct is available at [www.msue.msu.edu/lu](http://www.msue.msu.edu/lu). A code of conduct could also be combined with an oath of office, if such oaths are practice in the community.

**4. Officers**

- A. Selection. At the regular meeting in [insert the specific month] of each year, the Commission shall select from its membership a Chair, Vice-Chair, Secretary, and Deputy Secretary. All officers are eligible for reelection. In the event the office of the Chair becomes vacant, the Vice-Chair shall succeed to this office for the unexpired term and the Commission shall select a successor to the office of Vice-Chair for the unexpired term. In the event the office of the Secretary becomes vacant, the Deputy Secretary shall succeed to this office for the unexpired term and the Commission shall select a successor to the office of Deputy Secretary for the unexpired term. The Commission or Secretary may also designate another person who is not a member of the Commission to be the recording secretary.
- B. Tenure. The Chair, Vice-Chair and Secretary shall take office January 1 following their selection and shall hold office for a term of one year or until their successors are selected and assume office.

- C. Chair's Duties. The Chair retains his or her ability to discuss, make motions and vote on issues before the Commission. The Chair shall:
1. Preside at all meetings with all powers under parliamentary procedure;
  2. Shall rule out of order any irrelevant remarks; remarks which are personal; remarks about another's race, religion, sex, physical condition, ethnic background, beliefs, or similar topics; profanity; or other remarks which are not about the topic before the Commission;
  3. Restate all motions as pursuant to Section 5.E of these Bylaws;
  4. Appoint committees;
  5. Appoint officers of committees or choose to let the committees select their own officers.
  6. May call special meetings pursuant to Section 5.B of these Bylaws;
  7. Act as member and Chair of the Executive Committee pursuant to Section 7.A of these Bylaws;
  8. Act as an Ex-Officio member of all committees of the Commission;
  9. Appoint an Acting-Secretary in the event the Secretary is absent from a Commission meeting.
  10. Review with the Secretary or staff, prior to a Commission meeting, the items to be on the agenda if he or she so chooses;
  11. Periodically meet with the Planning Director and/or other Planning Department staff to review Planning Department operation, procedures, and to monitor progress on various projects.
  12. Annually perform a job evaluation of the Planning Director, discuss the evaluation with the Planning Director, and provide a copy of the evaluation for the Planning Department and [local governing body]'s personnel files;
  13. Chair or perform a major role in the interview and selection process for a Planning Director;
  14. Act as, or delegate someone to act as, the Planning Director in the absence of a Planning Director;
  15. Act as the Commission's and Planning Department's chief spokesman and lobbyist to represent the Commission at local, regional, and state government levels.
  16. Represent the Commission, along with the [legislative body] Commission member, before the [legislative body]; and
  17. Perform such other duties as may be ordered by the Commission.
- D. Vice-Chair's Duties. The Vice-Chair shall:
1. Act in the capacity of Chair, with all the powers and duties found in Section 4.C of these Rules, in the Chair's absence;
  2. Act as member and Vice Chair of the Executive Committee pursuant to Section 7.A of these Rules; and
  3. Perform such other duties as may be ordered by the Commission.
- E. Secretary's Duties. The Secretary shall:
1. Execute documents in the name of the Commission;
  2. Be responsible for the minutes of each meeting, pursuant to section 6.A of these Bylaws if there is not a recording secretary.
  3. Review the draft of the minutes, sign them, and submit them for approval to the Commission and shall have them spread in suitable volumes. Copies of minutes shall be distributed to each member of the Commission prior to the next meeting of the Commission (the Secretary may delegate this duty to Commission staff);
  4. Receive all communications, petitions, and reports to be addressed by the Commission, delivered or mailed to the Secretary in care of the Planning Department Office;
  5. Keep attendance records pursuant to Section 2.C of these Bylaws;
  6. Provide notice to the public and members of the Commission for all regular and special meetings, pursuant to the Open Meetings Act, P.A. 267 of 1976, as amended, M.C.L. 15.261 *et seq.* (the Secretary may delegate this duty to Commission staff);
  7. Prepare an agenda for Commission meetings pursuant to Section 5.K of these Bylaws (the Secretary may delegate this duty to Commission staff);
  8. Act as member and Secretary of the Executive Committee pursuant to Section 7.A of these Bylaws;
  9. May hire on behalf of the Commission for the local unit of government a Commission recording secretary (who shall not be a member of the Commission); and
  10. Perform such other duties as may be ordered by the Commission.
- F. Deputy Secretary's Duties. The Deputy Secretary shall:
1. Act in the capacity of Secretary, with all the powers and duties found in Section 4.E of these Rules, in the Secretary's absence; and
  2. Perform such other duties as may be ordered by the Commission.

G. Recording Secretary's Duties. The Recording Secretary shall not be a member of the commission or any of its committees, and shall:

1. At each meeting take notes for minutes and prepare a first draft of minutes pursuant to section 6.A of these Bylaws for review and signature by the Secretary; and
2. Perform such other duties as may be ordered by the Commission or secretary.

#### **Meeting time, location**

Section 5.A. should include the location and meeting time, e.g. "Third Wednesday of each month, at 7pm in the courthouse, 123 Fourth Street, Anytown." The act requires a planning commission meet at least four times a year (§21(1)).

#### **5. Meetings**

A. Regular meetings. Meetings of the Commission will be held the [insert a number] [enter a day of the week] of every month at 7 p.m. at [location building name and address]. When the regular meeting day falls on a legal holiday, the Commission shall select a suitable alternate day in the same month. An annual notice or regularly scheduled Commission meetings shall comply with P.A. 267 of 1976, as amended, (being the Michigan Open Meeting Act M.C.L. 15.261 *et seq.*)

B. Special Meetings. Special meetings shall be called in the following manner:

1. By the Chair.
2. By any two members of the Commission.
3. By the Chair at the request of any non member of the commission, upon payment of a non-refundable fee to cover costs of the special meeting. The fee shall be calculated as follows: The current amount of per diem paid times the total number on the Commission, regardless if they attend the meeting or not, plus the sum of travel reimbursement of each member, regardless if they each attend the meeting or not, plus the total Planning Department budget, which represents the costs of operating the Planning Department, divided by 365.
4. Notice of special meetings shall be given by the Secretary to members of the Commission at least forty eight (48) hours prior to such meeting and shall state the purpose, time, day, month, date, year and location of the meeting (the Secretary may delegate this function to staff). In addition notices shall comply with P.A. 267 of 1976, as amended, (being the Michigan Open Meetings Act M.C.L. 15.261 *et seq.*).

#### **The Statute Requires:**

"Unless the bylaws provide otherwise, a special meeting of the planning commission may be called by the chairperson or by 2 other members, . . ." §21(1). Thus the option is different if different rules for calling a special meeting exist.

#### **The Statute Requires:**

"Unless the bylaws provide otherwise, the secretary shall send written notice of a special meeting to planning commission members not less than 48 hours before the meeting" §21(1). Thus the option for different rules to give notice exists.

C. Recess. The Chair, or the Commission, after the meeting has been in session for two hours (not including site inspections), shall suspend the Commission's business and evaluate the remaining items on its agenda. The commission shall then decide to finish that meetings agenda, may act to continue the meeting on another day (fix the time at which to adjourn), or complete some agenda items and continue the meeting on another day to complete other agenda items or postpone certain agenda items to the next meeting. If applicable such action shall include the time, day, month, date, year, and location the Commission will reconvene. If more than 18 hours will pass before the reconvened Commission, public notice shall be given to comply with P.A. 267 of 1976, as amended, (being the Michigan Open Meeting Act M.C.L. 15.261 *et seq.*). Upon reconvening, a roll call of attendance shall be the first item of business before proceeding with the same agenda. The commission shall resume with the same meeting agenda, proceeding at the same point where they left off, without the addition of additional business.

D. Quorum. More than half the total number of seats for members of the Commission, regardless if vacancies exist or not, shall constitute a quorum for the transaction of business and the taking of official action for all matters before the Commission. Whenever a quorum is not present at a regular or special meeting, those present shall adjourn the meeting to another day.

E. Motions.



1. Motions shall be restated by the Chair before a vote is taken.
2. Findings of Fact. All actions taken in an administrative capacity (including but not limited to, special use permits, subdivisions, zoning, site plan review, planned unit developments, review and submission on another municipality's proposed plan, review and submission on a capital improvement, review of township zoning) shall include each of the following parts.
  - a. A finding of fact, listing what the Commission determines to be relevant facts in the case in order to eliminate misleading statements, hearsay, irrelevant, and untrue statements.
  - b. Conclusions to list reasons based on the facts for the Commission's action, often directly related, or not, to a finding of compliance, or noncompliance, to standards.
  - c. The Commission's action; recommendation or position, approval, approval with conditions, or disapproval.
- F. Voting. Voting shall be by voice and shall be recorded as passing or failing. Roll call votes will be recorded only upon request by a member of the Commission and shall be recorded by "yes" or "no". Members must be present to cast a vote. Voting by proxy shall not occur. The affirmative vote of a majority of those present or a majority of a quorum, whichever is greater, shall be necessary for the adoption of motions. The affirmative vote of a majority of the total number of seats for members of the Commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any plan or amendment to a plan.
- G. Commission Action. Action by the Commission on any matter on which a hearing is held shall not be taken until the hearing has been concluded.

**Vote for City or Village Plan Adoption**

If a city or village, the last sentence of "Voting" should be replaced with the following:

"The affirmative vote of  $\frac{2}{3}$  the total number of seats for members of the Commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any plan or amendment to a plan."

H. **Parliamentary Procedure.** Parliamentary procedure in Commission meetings shall be informal. However, if required to keep order, Commission meetings shall then be governed by *Roberts Rules of Order Newly Revised*, (10<sup>th</sup> Edition, Perseus Publishing, New York, 2000 (ISBN 0-7382-037-6)) for issues not specifically covered by these Bylaws. Where these Bylaws conflict, or are different than *Robert's Rules of Order*, then these Bylaws control.

I. **Public Participation.** All regular and special meetings, hearings, records, and accounts shall be open to the public.

1. All public comment on all agenda items should be presented at the beginning of the meeting where provided in the printed agenda. After that point during the meeting, public comment is normally not allowed; however, sometimes the Commission may direct questions to members of the public. Public comment is at the beginning of the meeting so the Commission can hear concerns and questions before acting on an issue. Those making public comment are expected to be familiar with the issue and have prepared comments ahead of time. To help the public in preparing for the meeting, any written material shall be made available without cost for members of the public asking for a copy prior to the meeting.

2. The Chair may limit the amount of time allowed for each person wishing to make public comment at a Commission meeting. The Chair may ask members of the audience to caucus with others sharing similar positions so they may select a single spokesperson. If a single spokesperson is selected, that individual shall be able to make public comment at the Commission meeting without time limit or an extended time limit.

J. **Consensus Business.** Certain items of business before the Commission are routine matters where no discussion normally occurs or is expected to occur and a consensus for adoption normally occurs or is expected to occur. The individual preparing the agenda may mark such items on the agenda as a Consent Item, if that individual feels it qualifies as consensus business. The agenda or material presented on the issue should indicate the proposed action (approve, disapprove, no comment, approve with modification). First, any Consent Item can be removed by request of a member. It is automatically removed if discussed during Public Participation. Second, a motion to adopt the Consent Items can be made, in effect adopting all agenda items still included as Consent Items. The approval of minutes and the expense report shall be proposed on the agenda as Consent Items. Consensus business can be proposed for any item on the agenda, but shall never include any of the following:

1. Items of business which are listed in Section 18 of these bylaws.
2. Review of plans and zoning ordinances, or any part or amendment thereto.
3. Action on special use permits, planned unit developments, site plans, and similar administrative actions.
4. Election of officers.
5. Any item not printed on the agenda which is delivered, along with adequate supporting information, to Commissioners prior to the meeting.

The motion to adopt Consent items in the minutes shall clearly list each item and indicate its action/disposition.

K. **Order of Business.** Agenda. The Secretary, or designee, shall prepare an Agenda for each meeting and the order of business shall be as follows:

(A) *Call to order, roll call, and Pledge of Allegiance.*

### **Parliamentary Procedure.**

There are several editions of *Robert's Rules of Order* ranging from 1876-2000. There are also different takes on *Robert's* such as simplified versions by various publishers. There are also different rules of order to consider such as:

- *Mason's Manual of Legislative Procedure* (by Paul Mason, Natl Conference of State, (ISBN-10: 1580241166));
- *Democratic Rules of Order* (Gordon Soules Book Publishers Ltd., Gibsons BC Canada (ISBN 0969926049));
- *Standard Code of Parliamentary Procedure* (by Alice Sturgis, McGraw-Hill Companies (ISBN-10: 0070625220)); and
- *Jefferson's Manual (Manual of Parliamentary Practice for the Use of the Senate of the United States*, (by Thomas Jefferson in 1801, as revised, U.S. Government Printing Office).

Some are simpler and easier to understand than *Robert's*. Any can be cited in one's bylaws. It is important that bylaws are specific as to which rules of order and which version is being used.

(B) *Matters pertaining to citizens present at the meeting, in the following order:*

- (1) *Advertised Public Hearings. The Chair will declare such a public hearing open and state its purpose. The petitioner, or proponent of the action advertised will be heard first.*
- (2) *Persons requested by the Commission to attend the meeting.*
- (3) *Other public participation for items on this agenda.*

(C) *Housekeeping business.*

- (1) *Consent Business.*
- (2) *Approval of Minutes.*
- (3) *Approval of Department's expense report.*
- (4) *Other.*

(D) *Unfinished business and reports (items considered here are taken up in the same order as established by the Commission to fix a priority for consideration and work done in the planning office).*

(E) *New business (other business and communications).*

(F) *Public participation for items not on this agenda.*

(G) *Adjournment.*

L. *Delivery of Agenda. The agenda and accompanying materials shall be mailed to Commission members so it is reasonably expected to be received prior to the weekend prior to the regular meeting date, generally accepted to be, but not always, mailed by first class mail on the Thursday of the week prior to the Commission meeting, pursuant to section 5.A.*

M. *Placement of Items on the Agenda.*

1. *The [Planning Department/Zoning Administrator] shall be the office of record for the Commission.*
2. *The [Planning Department/Zoning Administrator] may receive items on behalf of the Commission between the time of the adjournment of the previous Commission meeting and eight business days prior to the next regularly scheduled Commission meeting.*
3. *Items received by the [Planning Department/Zoning Administrator] between seven business days prior to the next regularly scheduled Commission meeting and the next regularly scheduled Commission meeting shall be set aside to be received by the Commission at its next regularly scheduled Commission meeting. The Commission may act on those items of a minor nature or table action to the subsequent regular or special Commission meeting. Those items of a major nature, or items normally receiving staff review, analysis, or recommendation shall be tabled until the subsequent regular or special Commission meeting.*
4. *The deadline to add items to the Commission's meeting agenda shall be seven business days prior to the next regularly scheduled Commission meeting.*

## **6. Record.**

A. *Minutes and Record. The Commission Secretary shall keep, or cause to be kept, a record of Commission meetings, which, shall at a minimum include an indication of the following:*

1. *Copy of the meeting posting pursuant to P.A. 267 of 1976, as amended, (being the Michigan Open Meetings Act, M.C.L. 15.261 et seq.)*
2. *Copy of the minutes, and all its attachments which shall include a summary of the meeting, in chronological sequence of occurrence:*
  - a. *Time and place the meeting was called to order.*
  - b. *Attendance.*
  - c. *Indication of others present (listing names if others choose to sign in and/or a count of those present).*
  - d. *Summary or text of points of all reports (including reports of what was seen and discussed at a site inspection) given at the meeting, and who gave the report and in what capacity. An alternative is to attach a copy of the report if offered in writing.*
  - e. *Summary of all points made in public participation or at a hearing by the applicant, officials, and guests and an indication of who made the comments. An alternative is to attach a copy of the public's statement, petition, or letter if it is provided in written form.*
  - f. *Full text of all motions introduced, whether seconded or not, who made the motion and who seconded the motion. For each motion, the following should be included:*
    - (1) *Who testified and a summary of what was said..*
    - (2) *A statement of what is being approved (e.g. special use permit, variance, conditional use permit, subdivision, land division, etc.)*
    - (3) *The location of the property involved (tax parcel number and description, legal description is best).*



- (4) What exhibits were submitted (list each one, describe each, number or letter each and refer to the letter or number in the minutes).
  - (5) What evidence was considered (summary of discussion by members at the meeting).
  - (6) The administrative body's findings of fact.
  - (7) Reasons for the decision made. (If the action is to deny, then each reason should refer to a section of an ordinance which would be violated or with which not complied.)
  - (8) The decision (e.g. approve, deny, approve with modification).
  - (9) A list of all required improvements (and if they are to be built up-front or name the type of performance security to be used), if any.
  - (10) List of all changes to the map/drawing/site plan that was submitted. (Sometimes it is easier to use a black flair felt pen and draw the changes on the map of what was applied for, rather than listing the changes. Do not use different colors. The map will most likely be photo copied. Then colors on the copy will not show at all or will just be black.)
  - (11) Make the map/drawing/site plan part of the motion (e.g. "...attached to the original copy of these minutes as appendix 'A', and made a part of these minutes...").
- g. Who called the question.
  - h. The type of vote and its outcome. If a roll call vote, indicate who voted yes, no, abstained or a statement the vote was unanimous. If not a roll call vote, then simply a statement: "the motion passed/failed after a voice vote."
  - i. That a person making a motion withdrew it from consideration.
  - j. All the Chair's rulings.
  - k. All challenges, discussion and vote/outcome on a Chair's ruling.
  - l. All parliamentary inquiries or point of order.
  - m. When a voting member enters or leaves the meeting.
  - n. When a voting member or staff member has a conflict of interest and when the voting member ceases and resumes participation in discussion, voting and deliberations at a meeting.
  - o. All calls for an attendance count, the attendance, and ruling if a quorum exists or not.
  - p. The start and end of each recess.
  - q. All Chair's rulings of discussion being out of order.
  - r. Full text of any resolutions offered.
  - s. Summary of announcements.
  - t. Summary of informal actions, or agreement on consensus.
  - u. Time of adjournment.
3. Records of any action, support documents, maps, site plans, photographs, correspondence received, attached as an appendix to the minutes.
- B. Retention. Commission records shall be preserved and kept on file according to the following schedule:
1. Minutes, bonds, oaths of officials, zoning ordinances, master or compressive plans, other records of decisions, Commission or department publications: Permanent.
  2. General ledger: 20 years.
  3. Account journals: 10 years.
  4. Bills and/or invoices, receipts, purchase orders, vouchers: 7 years.
  5. Correspondence: Permanent.

## 7. Committees

### A. Executive Committee.

1. The Executive Committee shall be a standing committee of the Commission. Its membership shall be the Chair, Vice-Chair, and Secretary of the Commission and they shall hold the same offices on the committee. The Executive Committee may deal with recommendations to the Commission on matters of the Commission budget; employment of a [Planning Department/Zoning Administrator]; overseeing the [Planning Department/Zoning Administrator]'s day-to-day administration of the [Planning Department/Office of the Zoning Administrator]; office and personnel policy; and anything else directed to the Executive Committee by the Commission.
2. The Executive Committee has limited power to act only on housekeeping matters, budget, office policy, and overseeing contracts and personnel when time constraints require action prior to the next regularly scheduled Commission meeting. Such actions shall be reported at the next regularly scheduled Commission meeting and are subject to the Commission's review and/or veto.

- B. Ad Hoc Committees. The Commission or Chair may establish and appoint ad hoc committees for special purposes or issues, as deemed necessary. Less than a quorum may serve on an ad hoc committee at any given time.
- C. Citizen Committees. The Commission, Chair, or [Planning Department/Zoning Administrator] may establish and appoint citizen committees with the consent of the Commission. Membership can be any number, so long as less than a quorum of the Commission serve on a citizen committee at any given time. The purpose of the citizen committee is to have more citizen and municipal government involvement, to be able to use individuals who are knowledgeable or expert in the particular issue before the Commission and to better represent various interest groups in the [local unit of government].

**8. Rules of Procedure for All Committees**

- A. Subservient to the Commission. All committees are subservient to the Commission and report their recommendations to the Commission for review and action. The Commission can overrule any action of any committee.
- B. Same Principles. The same principals of these Bylaws for the Commission also apply to all committees of the Commission including, but not limited to:
  - 1. Officers. Officers of committees are appointed by the Chair of the Commission at the time the committee is created, or are elected by the committee's membership at their first meeting. Officers, at a minimum, include a Chair and Secretary-Vice-Chair.
  - 2. Quorum. A committee's quorum shall be at least half the total appointed membership of the committee.
  - 3. Voting. Only those appointed members of a committee, who are present at the time of a vote shall be eligible to cast a vote.
  - 4. Attendance. If any member of a committee is absent from three consecutively scheduled meetings, then that member shall be considered delinquent. Delinquency shall be grounds for the Commission to remove any member from the committee. The committee Secretary-Vice-Chair or acting committee Secretary in the absence of the elected committee Secretary-Vice-Chair shall keep attendance records and notify the Commission of any committee member who is absent from three consecutively scheduled meetings so the Commission may consider removal of the individual from the committee or excuse the absence(s).
  - 5. Minutes. The Secretary-Vice-Chair of the committee shall keep minutes of the committee meetings in the same format used by the Commission and filed in the same office as the Commission's minutes.
  - 6. Staff. Committees have reasonable use of [Planning Department/Zoning Administrator] staff time and assistance and direction for performing the work of the committee.
  - 7. Public. All committee meetings are open meetings available for public attendance and participation and minutes of the meetings are to be available for public inspection under the same principals found in P.A. 267 of 1976, as amended, (being Michigan Open Meetings Act, M.C.L. 15.261 *et seq.*).
  - 8. Subcommittees. Citizen committees may form subcommittees from their own membership and/or with additional citizens when deemed necessary. Subcommittees are subservient to the parent committee. Subcommittees are informal, not requiring quorums, attendance requirements, minutes, or public participation. Subcommittee membership shall consist of less than half the parent committee's membership.

**9. [local unit of government] Department and Subdivisions; and Intergovernmental Coordination.**

The Commission shall be responsible for coordination of all related plans between departments or subdivisions of [local unit of government] and intergovernmental coordination of all related planned activities among the state, federal, and municipal governments concerned. The Commission may use committees (pursuant to section 7.B of these rules), [Planning Department/Zoning Administrator] staff, citizen committees (pursuant to section 7.C of these rules), and interagency staff teams for purposes of accomplishing coordination. If a staff team is used, the team shall not be a committee of the Planning Commission or any other public body and shall not be a public body. The team shall be an employee level technical review with only powers to recommend.

#### 10. Mileage and Per Diem

- A. Mileage and per diem shall be paid to members of the Commission at rates established by the [legislative body] for attending Commission meetings and Executive Committee meetings, and other authorized meetings and trips to represent the [local unit of government], if those Commission members bill the [local unit of government] for the same. Only mileage shall be paid for attendance at ad hoc committee meetings, if those Commission members bill the [local unit of government] for the same. No mileage or per diem is paid to any members of a citizen committee, unless authorized and budgeted by the [legislative body] with recommendation by the Commission.

##### **The Statute Requires:**

"A planning commission may adopt bylaws relative to compensation and expenses of its members and employees for travel when engaged in the performance of activities authorized by the legislative body, including, but not limited to, attendance at conferences, workshops, educational and training programs, and meetings" §23(1).

#### 11. Hearings

- A. Plan Hearings. Before the adoption of any part of a plan, as defined in the Planning Act, or any amendment to a plan, or recommending approval of an amendment to the [legislative body], the Commission shall hold a public hearing on the matter. Notice of the time and place of the hearing shall be given, not less than 15 days prior to such hearing, by at least one publication in each newspaper of general circulation.
- B. Special Hearings. Notice of special hearings for the purposes of presenting preliminary master plans, obtaining public opinion on a problem, or discussion of a particular problem with interested parties will be given in the most practical manner and to persons, or group representatives most interested, and as required by the Planning Act, Zoning Act, and relevant local zoning ordinance.
- C. Notice of Decision. A written notice containing the decision of the Commission will be sent to petitioners and originators of a request for the Commission to study a special problem.

##### **Special Hearings**

If the planning commission does not have zoning responsibilities, then reference to zoning in section 11.B. of the Bylaws should be deleted.

#### 12. Zoning Responsibilities

- A. All powers of the zoning commission have been transferred to this Commission, pursuant to M.C.L. 125.3301 of the Zoning Act.
- B. Zoning adoption or amendment (including PUD zoning amendments). The commission shall review and act on all proposed zoning ordinances, or zoning amendments pursuant to the Zoning Act. At least one hearing shall be held on each proposed zoning ordinance or amendment, with notices given as specified in the zoning ordinance and the Zoning Act. After the hearing, action shall be in the form of a recommendation to the legislative body. At a minimum the recommendation shall include:
1. Zoning plan for the areas subject to zoning, or zoning amendment of the local unit of government;
  2. The establishment of or modification of zoning districts, including the boundaries of those districts, if applicable;
  3. The text of a zoning ordinance or amendment with the necessary maps and zoning regulations to be adopted for a zoning district or the zoning jurisdiction as a whole; and
  4. The manner of administering and enforcing the zoning ordinance.

##### **Zoning Responsibilities**

If the planning commission does not have zoning responsibilities then all of section 12. of the Bylaws should be deleted.



- C. Special Use Permit (including PUDs). The Commission shall review and act on all special use permits pursuant to the Zoning Act and zoning ordinance. At least one hearing shall be held on each proposed zoning ordinance or amendment, with notices given as specified in the zoning ordinance and the Zoning Act. After the hearing action shall be in the form of a motion which contains (or is included in the minutes) a finding of fact, conclusions as to a list of reasons for the action, and the Commission's action, pursuant to section 5.E.2 of these Bylaws.
- D. Site Plan Review. The Commission shall review and act on all those site plans which the zoning ordinance requires Commission action. Action shall be in the form of a motion which contains (or is included in the minutes) a finding of fact, conclusions as to a list of reasons for the action, and the Commission's action, pursuant to section 5.E.2 of these Bylaws.
- E. Appeals. The Commission shall not act, or otherwise hear issues on zoning ordinance interpretation, zoning map interpretation, non-use variances, or use variances. Such matters shall be exclusively the jurisdiction of the Zoning Board of Appeals.

### Special Use Permits

Special Use permits and PUDs may be reviewed and approved by a zoning commission, planning commission, and official charged with administering the zoning ordinance or the legislative body. These bylaws are written assuming approval is by the planning commission and a hearing is automatically always held. If that is not the case, section 12.C. needs to be changed to reflect local procedure.

### 13. Plan Reviews.

- A. The Commission shall review all adjacent, or contiguous, local government plans (township, village, and city), adjacent county plans, local governments government plans (township, village, and city plans) within the boundaries serviced by the Commission, and the county plans in which the Commission's service area is located.
- B. Action shall be in the form of a motion which contains (or is included in the minutes) a finding of fact, conclusions as to a list of reasons for the action, and the Commission's advisory action, pursuant to section 5.E.2 of these Bylaws.
- C. The review should focus on:
  - 1. First and foremost, the process is intended to increase coordination of planning between governments.
  - 2. Consistencies or inconsistencies with your government's plan(s) for matters such as:
    - a. Border issues
    - b. Issues of greater than local concern
    - c. Comparison with local plan contents
    - d. Comparison with county/regional plan contents
    - e. Comparison to other relevant adopted plans (such as an historic preservation plan, local wetland protection plan, TIF or brownfield redevelopment plan, etc.).
    - f. Comparison to various implementation strategies.
  - 3. If the county planning commission considered the proposed plan inconsistent with the plan of any city, village, township, or region that received a copy of the draft plan (or amendment).
  - 4. If the county planning commission considers the draft plan (or amendment) to be inconsistent with a county plan(s), if any.
  - 5. Action by the Commission shall be based on, in part, a review of possible boundary conflicts between the plans of two municipalities. If a boundary conflict is found to exist the following shall apply:
    - a. The assumption is made that there should not be any provision of a municipal plan which is in conflict with the county plan.
    - b. The Commission shall use compliance with the county plan as its main tool for purposes of coordination of the proposed plans with the plans of municipalities having a common boundary. If a conflict is found to exist, it is not proper to assume the proposed plan is the problem. The problem

### Plan Reviews

Sections 13.C.3., 13.C.4., and 13.C.5. are for county planning commissions only. If these bylaws are not for a county planning commission sections 13.C.3., 13.C.4., and 13.C.5. should be deleted.

could be the municipality which is adjacent to the municipality for which the plan is being reviewed. The problem could be both plans.

- c. The criteria to determine which municipality has the plan which causes the boundary conflict shall be the Commission's finding of compliance with the county plan. The municipality (or both municipalities) not in compliance with the county plan shall be deemed to have the plan which contributes to the boundary conflict.

- D. The review shall be in the form of a letter and shall take into account:

1. Respect for the idea that the submission and review stages are near the end of a plan adoption process. A community may be ready to adopt and others may be waiting for the task to be done. Do not extend the adoption more than necessary.
2. Focus only on significant issues, in a clear and well documented way. Suggest solutions rather than only pointing out what is wrong.
3. Be clear and document statements to improve the quality of planning for the entire area. This process is to improve coordinated planning, not to undermine relationships or exacerbate tensions between governments.
4. Include mutual respect of others, so the comments are factual, objective, and based on sound planning principles.

#### 14. Township Zoning Reviews.

- A. The Commission shall review all zoning ordinances and zoning amendments for townships within the county.
- B. Action shall be in the form of a motion which contains (or is included in the minutes) a finding of fact, conclusions as to a list of reasons for the action, and the Commission's advisory action, pursuant to section 5.E.2 of these Bylaws.
- C. Township zoning, which shall be submitted with the following information:
  1. The text of the proposed ordinance,
  2. The map for the proposed ordinance,
  3. A letter from the township's attorney of their choice indicating:
    - a. proper procedure for adoption and
    - b. the ordinance has been reviewed against all other applicable statutes and law, and
    - c. the ordinance is appropriately drafted for use as a legal/ordinance document.
- D. Action by the Commission shall be based, in part, on a review of possible boundary conflicts between the zoning of two municipalities. If a boundary conflict is found to exist the following shall apply:
  1. The assumption is made that there should not be any provision of the township plan which is in conflict with the county plan. Thus the proposed zoning, which is based on the township plan, should also comply with the county plan.
  2. The Commission shall use compliance with the county plan as its main tool for purposes of coordination of the proposed zoning ordinances with the zoning ordinances of other municipalities having a common boundary with the township. If a conflict is found to exist, it is not proper to assume the Township's proposed zoning is the problem. The problem could be the township or municipality which is adjacent to the township for which the zoning is being reviewed. The problem could be both zoning ordinances.
  3. The criteria to determine which municipality has the zoning which causes the boundary conflict shall be the Commission's finding of compliance with the county plan. The municipality (or both municipalities) not in compliance with the county plan shall be deemed to have the zoning which contributes to the boundary conflict.
- E. The review shall be in the form of a letter and shall take into account:
  1. Respect for the idea that the submission and review stages are near the end of a plan adoption process. A community may be ready to adopt, and others may be waiting for the task to be done. Do not extend the adoption more than necessary.
  2. Focus only on significant issues in a clear and well documented way. Suggest solutions rather than only pointing out what is wrong.
  3. Be clear and document statements to improve the quality of planning for the entire area. This process is to improve coordinated planning, not to undermine relationships or exacerbate tensions between governments.

#### Township Zoning Reviews

Section 14. is for county planning commissions only. If these bylaws are not for a county planning commission, section 14. should be deleted.

4. Include mutual respect of others, so the comments are factual, objective, and based on sound planning principles.

#### 15. Capital Improvements Review

- A. Capital Improvements (the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any public way, grounds, agricultural land, open spaces, buildings, or properties before work is started and after municipal capital improvement planning approval is obtained). If the funding for the capital improvement project is from a grant, this approval must be obtained prior to applying for the grant or done as part of the state or federal grant clearinghouse process.
- B. All preliminary plans and reports for the physical development of the [local unit of government], including the general location, character and extent of streets and roads, viaducts, bridges, farmland, agricultural land, forest land, parks and open spaces; the general location of public buildings and other public property; the general location and extent of public utilities and terminals.
- C. Action shall be in the form of a motion which contains (or is included in the minutes) a finding of fact, conclusions as to a list of reasons for the action, and the Commission's advisory action, pursuant to section 5.E.2 of these Bylaws.
- D. When reviewing the proposed project the planning commission should at a minimum consider the following issues. If the answer to any of the below is "no," then the planning commission's review of the project should not be favorable.
  1. Is the proposed project consistent with adopted plans?
  2. Is the project consistent with other governmental management plans?
  3. Is the project consistent with the plans of each municipality located within or contiguous to the local unit of government?
  4. Is the project consistent with adopted, if any, capital improvement plans?
- E. The review shall be in the form of a letter, sent within 35 days after the proposal is filed for review, and shall take into account:
  1. Respect for the idea that the submission and review stages are near the end of a process. A community may be ready to start construction and others may be waiting for the task to be done.
  2. Focus only on significant issues in a clear and well documented way. Suggest solutions rather than only pointing out what is wrong.
  3. Be clear and document statements to improve the quality of planning for the entire area. This process is to improve coordinated planning, not to undermine relationships or exacerbate tensions between governments or agencies of governments.
  4. Include mutual respect of others, so the comments are factual, objective, and based on sound planning principles.

#### **The Statute Requires:**

Section 61 of the Planning Act addresses CIP reviews, details of how that is done can be in the bylaws.

#### 16. Capital Improvements Program

- A. Annually, a capital improvement program (CIP) of public structures and improvement shall be adopted.
- B. To do so, the Commission shall establish a committee consisting of volunteers from the community or a combination of volunteers and representatives from each department within the local unit of government.
- C. The planning commission should also include the following individual, individuals, agencies, and departments in preparing the CIP.
  1. Chief Executive (city manager, department heads, township manager, county controller/administrator, supervisor, city mayor, village president, etc.);
  2. All departments within the government;

#### **The Statute Requires:**

Section 65 of the Planning Act ....

Section 16 should be deleted if the planning commission is exempted from this duty by charter, because the legislative body asserts its authority to do so. This may be deleted in a township without water and/or sewer utilities or may be left in if the township chooses to do a CIP anyway.



3. Finance and budget department: The financial office or the person responsible who conducts the financial analysis and projections on costs and revenues for a capital improvement program and determines the best possible means to finance each capital project.
4. The Planning department staff (if any exist).
- D. The committee shall cause to be requested from each agency or department of the local unit of government (with authority for public structures or improvements) for an annual inventory of desired public improvement projects with lists, plans and estimates of time and cost involved.
- E. The committee or planning staff shall organize the proposed public structures and improvements in the general order of their priority, that in the committee's judgment will be needed or desired or can be undertaken in the ensuing 6-year period.
  1. In doing so, the committee may make use of expert advice and information from staff from the planning department or private consultants:
    - a. Governmental Accounting Standards Board (GASB) Statement No. 34, Basic Financial Statements –and Management's Discussing and Analysis– For State and Local Governments.
    - b. Population studies
    - c. Economic studies
    - d. Land Use Maps
    - e. Future Plans
  2. In doing so, the committee shall develop a formal set of criteria or use other techniques to use to organize the proposed public structures and improvements in order of importance. The following issues at a minimum should be considered:
    - a. Description, location, and purpose of project;
    - b. Justification for the need for project;
    - c. An explanation of its relationship to other projects;
    - d. The cost of project (submit detailed budget);
    - e. Estimated annual income from projects;
    - f. Estimated annual operation costs for the project;
    - g. Status of plans/specifications for the project and the expected length of time the capital project will last;
    - h. Year construction of project should start;
    - i. The rank/importance of project within department submitting it;
    - j. Environmental, health, and safety impacts and energy consumption.
  3. The proposed public structures and improvements in order of importance shall be considered a draft CIP, which shall be presented to the Commission.
- F. The planning commission shall review the CIP:
  1. The review shall include each project to determine the conformance of the projects with community comprehensive plans, development policies, and the objectives and goals of the community.
  2. The review shall include an opportunity for agencies to present their arguments for why any given project should be included in the program and at what order of priority.
  3. Upon completion of the review, a second draft of the CIP shall be prepared.
- G. The planning commission shall hold a public hearing on the second draft of the CIP.
- H. After the hearing, if needed, a third draft of the CIP shall be prepared. The planning commission then:
  1. Formally adopts the CIP in the form of a recommendation to the legislative body for adoption; or
  2. Adopts an amended version of the CIP in the form of a recommendation to the legislative body for adoption; or
  3. Does not approve, thus does not adopt the ranked listing/project priorities, and proceeds to further revise the CIP until the Commission is prepared to adopt the CIP.
- I. If the legislative body refers the CIP back to the Commission, the Commission shall further review the CIP, make modifications, and submit another version of the CIP to the legislative body.

## 17. Subdivision Review

- A. Prepare a Subdivision Ordinance (and/or Subdivision, Land Division, Site-Condominium Ordinance), or amendments to the same, to submit to the legislative body
- B. Proposed Subdivisions.

1. Staff for the Commission is to receive a plat and determine that the submission is complete. If incomplete, the plat shall be returned to the applicant with a list of deficiencies. If complete, the plat shall be received on behalf of the Commission.
2. Conduct a review of plats of proposed subdivisions (and/or site-condominium).
3. Hold a hearing on a proposed subdivision (and/or site-condominium) with notice of the hearing sent not less than 15 days before the date of the hearing.
  - a. The notice shall contain an explanation of what the hearing is for, the location and nature of the proposed development, the date, time, place of the hearing, where written comments may be submitted, and the deadline for those written comments.
  - b. The notice shall be sent to the person indicated on the plat (and/or draft site-condominium master deed) as the proprietor or other person(s) to whom notice of the hearing shall be sent, the property owner, and adjacent property owners.
  - c. The notice shall be published in a newspaper of general circulation in the [local unit of government]
  - d. Any others as required by the Subdivision Ordinance (and/or Subdivision, Land Division, Site-Condominium Ordinance).
4. Within 63 days of a complete plat (and/or draft site-condominium master deed) being submitted, act on the proposed subdivision (and/or site-condominium) in the form of a recommendation to the legislative body of the municipality in which the proposed subdivision (and/or site-condominium) is located.
  - a. If applicable standards under the Land Division Act (M.C.L. 560.101 *et seq.*), Condominium Act (M.C.L. 559.101 *et seq.*) if applicable, and Subdivision Ordinance (and/or Subdivision, Land Division, Site-Condominium Ordinance), the Commission shall recommend approval.
  - b. Grounds for any recommendation of disapproval of a plat (and/or Site-Condominiums) shall be stated upon the record of the Commission.
  - c. If the Commission does not act within the 63-day period, the plat (and/or Site-Condominiums) shall be considered to have been recommended for approval, and a certificate to that effect shall be issued by the Commission upon request of the applicant. The applicant may waive the 63-day period and grant an extension.

- C. Master Plan Amendment. Commission approval of a subdivision shall be considered to be an amendment to the master plan and a part thereof. The Commission shall cause the official copies of the master plan to be modified to reflect the amendment to the master plan within 30 days of the subdivision approval.

## 18. Other Matters to be considered by the Commission

- A. Commission Action. The following matters shall be presented for consideration at a meeting of the Commission:

### The Statute Requires:

Section 71 of the Planning Act, for subdivision reviews. These bylaws should include detail on how review of subdivisions are handled when the community has adopted its subdivision review ordinance.

Site-Condominium and Land Division regulations might also be included in one comprehensive ordinance. However the review of site-condominiums must be based on authority found in the Condominium Act, M.C.L. 559.101 *et seq.* It is not enough to just indicate in the bylaws review of site-condominiums will be done. Such authority must be done by adopted ordinance. Consult the local government's attorney.

Land Division reviews should be done by the tax assessor or other designated official: that is a individual person, not a board or commission (M.C.L. 560.109(1)).

### Other Matters considered by the Commission

Section 12.A. about matters to come before the Commission, and other duties the Commission may have should be reviewed carefully to insure there are not any additions or deletions. It is appropriate to delete those that do not apply.

1. At least annually, the adoption of priorities for the Commission's plan of work.
  2. Annually, preparation of an annual report of the Commission.
  3. Office, or Administrative Policy and ruling of interpretation of regulations by the Commission or its staff.
  4. The general character, extent and layout of the replanning and redevelopment of blighted districts and slum areas.
  5. Land subdivision plats.
  6. All address changes pursuant to the [local unit of government] Address Ordinance, as amended.
  7. All Planning reports and plans before publication.
  8. Matters which properly come before the [local unit of government] County Designated Solid Waste Planning Agency, pursuant to Part 115 of P.A. 451 of 1994, as amended, (being the Solid Waste Management part of the Natural Resources and Environmental Protection Act, M.C.L. 324.11501 *et seq.*)
  9. Soil and Sedimentation Control Board of Appeals cases.
  10. All matters of business of the [local unit of government] County Resource Conservation and Development Committee, with the Commission acting as that committee.
  11. All matters of business of the [local unit of government] County policy committee as created by the [local unit of government] County Remonumentation Plan.
  12. All matters of business concerning [local unit of government]'s computer, or digital, Geographic Information System (GIS) as delegated by the [legislative body] on [date] with power to act.
  13. Planning Department's and Commission's budget requirements for the fiscal year and request for appropriation.
  14. Selection of consultants and determination of basis for compensation and selection of a Planning Director.
  15. Such other matters as the Director shall find it advisable or essential to receive consideration by the Commission.
- B. Staff Policy. From time to time the Commission shall publish policy to further define and categorize work done by staff for municipalities in [local unit of government] County as:
1. Tasks which are a basic purpose of the County Planning Commission and for which no charge or fee shall be charged.
  2. A secondary purpose of the Commission which is to include "assistance" to municipalities in [local unit of government] County for which a fee may or may not be charged, as may be established from time to time by the Commission.
  3. A secondary purpose of the Commission which is to include "work" on a contract or for hire basis by municipalities in [local unit of government] County for which a fee shall be charged, as established from time to time by the Commission.
- C. Fees. The Commission shall from time to time establish fees for services, municipal "assistance", or municipal "work". Such fees shall not contravene any state statute, county ordinance, or fee established by the [local unit of government] legislative body.

#### **County only:**

Sections 18.A.8., 18.A.10., and 18.A.11. apply to county planning commissions only, and should be deleted in city, village, and township planning commission bylaws.

Section 18.A.9. does not apply to a township planning commission. Section 18.A.9. should be deleted for a township bylaws and only left in a city or village planning commission bylaws if the city or village is the designated soil and sedimentation control agency.

#### **19. Commission staff**

- A. Authorization. The Commission staff may consist of a Planning Director and such other personnel as may be authorized by the Commission after the budget for the same is approved by the [local unit of government].
1. Planning Director selection shall in addition to [local unit of government] policy and/or Labor Contract requirements include considering this position as necessary to fill from candidates

#### **Commission staff**

Section 13 on Commission staff should be omitted if there is no staff. Section 5.M., section 8, section 12.B. and section 12.C. should also be changed to reflect that there is no staff or some other office will handle the functions.



- representing more than just the [local unit of government] labor market. Thus, any advertising for this position should appear, in order of priority in:
- a. *Planning and Zoning News of Lansing*
  - b. Newspapers of general circulation in [local unit of government]
  - c. Michigan State University Career Placement Bulletin
  - d. University of Michigan Career Placement Bulletin
  - e. Wayne State University Career Placement Bulletin
  - f. Central Michigan University Career Placement Bulletin
  - g. Northern Michigan University Career Placement Bulletin
  - h. *Detroit News-Free Press* Sunday edition (optional)
  - i. American Planning Association *Job Mart* (optional, only if nation-wide candidate search is desired).
2. Assistant Planner(s) selection shall in addition to [local unit of government] policy and/or Labor Contract requirements include considering these positions as necessary to fill from candidates representative of labor markets both in and outside the [local unit of government]. Thus, any advertising for this position should appear, in order of priority in:
    - a. *Planning and Zoning News of Lansing*
    - b. Newspapers of general circulation in [local unit of government]
    - c. Michigan State University Career Placement Bulletin
    - d. University of Michigan Career Placement Bulletin
    - e. Central Michigan University Career Placement Bulletin
    - f. Northern Michigan University Career Placement Bulletin
    - g. *Detroit News-Free Press* Sunday edition (optional)
    - h. American Planning Association *Job Mart* (optional, only if nation-wide candidate search is desired).
  3. Zoning Administrator(s) selection shall in addition to [local unit of government] policy and/or Labor Contract requirements include considering these positions as necessary to fill from candidates representative of labor markets both in and outside the [local unit of government]. Thus, any advertising for this position should appear, in order of priority in:
    - a. *Planning and Zoning News of Lansing*
    - b. Newspapers of general circulation in [local unit of government]
    - c. Michigan State University Career Placement Bulletin
    - d. University of Michigan Career Placement Bulletin
    - e. Central Michigan University Career Placement Bulletin
    - f. Northern Michigan University Career Placement Bulletin
    - g. *Detroit News-Free Press* Sunday edition (optional)
    - h. American Planning Association *Job Mart* (optional, only if nation-wide candidate search is desired).
  4. Planning Department Secretary(ies), Planning Technicians, and Assistant Zoning Administrators selection shall in addition to [local unit of government] policy and/or Labor Contract requirements include considering this position to be filled from the [local unit of government] labor market area with advertising in local media.
- B. General Responsibility. The Commission staff is charged with the duty of preparation and administration of such plans as are authorized by the Commission, appropriate for the [local unit of government] and its environs and are within the scope of the Planning Act and the Zoning Act.
  - C. Advocacy. The Commission staff shall not attempt to represent the views or comments of a member of the public at a public hearing or Commission meeting. Staff shall indicate a member of the public wishing to make their views known and they should do so directly to the Commission in person, through an agent, or by providing written comment. Staff should avoid situations of appearing to advocate for an individual or group. Nothing herein is intended to prevent staff from helping an individual or group be better informed and to present their own views. Nothing herein is intended to prevent staff from expressing their own views as private citizens.
  - D. Coordinated Enforcement. To further supplement the small number of staff responsible for inspections and enforcement of various regulations, staff shall report all suspected problems or violations seen during the course of their work. Staff shall follow the following procedures and guidelines:
    1. When observing a problem or suspected violation, do not assume a violation exists or confront the suspected perpetrator. Avoid a situation where discussion or confrontation exists in an area outside the staff person's jurisdiction.
    2. Report the problem or suspected violation to the [local unit of government] department, county, state, or federal agency which has jurisdiction, as quickly as possible.

3. When observing or receiving a report from another [local unit of government] department, county, state, or federal agency, of a problem or suspected violation, pursue enforcement, or its resolution through normal procedures for the particular situation.

E. Conflict of Interest.

1. All members of the Commission's staff shall avoid situations which are conflicts of interest, and/or incompatibility of office. As used here, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:

- a. Issuing, deliberating on, voting on, or reviewing a case concerning him or her.
- b. Issuing, deliberating on, voting on, or reviewing a case concerning work on land owned by him or her or which is adjacent to land owned by him or her.
- c. Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership, or any other entity in which he or she is a part owner, or any other relationship where he or she may stand to have a financial gain or loss.
- d. Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a pecuniary benefit to him or her.
- e. Issuing, deliberating on, voting on, or reviewing a case concerning his or her spouse, children, step-children, grandchildren, parents, brothers, sisters, grandparents, parents-in-law, grandparents-in-law, or members of his or her household.
- f. Issuing, deliberating on, voting on, or reviewing a case where his or her employee or employer is:
  - (1) an applicant or agent for an applicant, or
  - (2) has a direct interest in the outcome.

2. When a conflict of interest exists staff shall do all of the following immediately, upon first review of the case and determining a conflict exists:

- a. declare a conflict exists,
- b. cease to process the case any further, and
- c. forward the case, and all pertinent records, to an alternate, assistant, or manager so the case is dealt with by someone else.

3. Other than as part of work for the Commission staff shall not (1) provide private consultation services, or advise on similar related services for clients, (2) provide work in professions or services which is or could be regulated by the Commission (such as, but not limited to planning, zoning, real estate, land development, solid waste, land surveying, architecture, professional and civil engineering, landscape architecture, sociology, economics, geography, political science, public administration consulting or work) within a site within the boundaries of [local unit of government] or for clients who are or may be applicants before the Commission, Zoning Board of Appeals, or the Commission's staff. This is not intended to prevent a staff person from assisting residents, municipalities, or others seeking help from the Commission, which are normally part of an employee's duties.

- F. Planning Director's Duties. The Planning Director shall be responsible for the professional and administrative work in directing and coordinating the program of the Commission. His or her work shall be carried on with the widest degree of professional responsibility, subject to the policy determinations and job description as adopted from time to time by the Commission and administrative policies of the County. In addition to any

**Adjacent Land and Conflict of Interest**

Some thought should be given to how far away from one's own property one goes to consider it to be a conflict of interest. In a very small community, with a large distance from the property, it may be hard to ever have a situation which is not a conflict for a number of members of the Commission.. This practical matter should be balanced with the need to avoid the appearance of conflict and actual conflicts.

Courts have only gone as far as the adjacent parcel, and do not consider it a conflict beyond that. Some communities have used a "within 300 feet" standard (the same distance where notices are required).

**Family and Conflict of Interest**

Some thought should be given to how expansive, or limited, the list of who is included in "family" is. In a very small community, with an expansive list of family, it may be hard to ever have a situation which is not a conflict. This practical matter should be balanced with the need to avoid appearance and actual conflicts.

job description adopted from time to time by the Commission, the basic fundamentals of the Planning Director's job shall include, but not be limited to:

1. Recommendations. The Planning Director shall take action or make recommendations in the name of the Commission, in accordance with such plans, policies and procedures as are approved or established by the Commission from time to time. Where there is a serious conflict of interest, public controversy, or uncertainty or doubt as to the plans, policies, or procedures approved or established by the Commission, presentation of the matter shall be made at a Commission meeting.
2. Administrative Duties. The Planning Director shall:
  - a. Supervise and review the work of the professional, technical, and nontechnical employees of the Commission staff.
  - b. Prepare a proposed annual budget for the Commission and Department to submit to the Commission.
3. Policy Formulation. The Planning Director shall:
  - a. Be responsible for carrying out the directives of the Commission.
  - b. Advise and assist the Commission in the establishment of general planning policy.
  - c. Work with the Chair of the Commission for formulation of staff policy, subject to approval by the Commission.
  - d. Recommend to the Commission action necessary for effectuating plans with respect to both public and private endeavors.
  - e. Administer zoning and subdivision ordinances.
  - f. Prepare drafts of Capital Improvement Programs.
  - g. Prepare long range comprehensive plans and other plans.
4. Public Relations. The Planning Director shall:
  - a. Officially present the Commission's recommendations to the governing body.
  - b. Officially represent the Commission and its staff at planning conferences, interdepartmental meetings of the county government, and serve generally as a liaison between the Commission and the public.
  - c. Encourage private development or investment in accord with comprehensive plans.
  - d. Cooperate with public and private agencies and with individuals for the development, acceptance, and effectuation of plans.
  - e. Supply information for and encourage interested public agencies and citizen organizations in programs to promote public understanding of and government cooperation with planning efforts.
  - f. Accept other responsibilities as may be directed by the Commission, Governing Body, or Chief Executive.
5. Commission duties delegated to the Planning Director:
  - a. To oversee and coordinate Commission staff teams, pursuant to section 9 of these rules as directed.
- G. Other Staff Duties. The Commission shall establish, with consultation with the Planning Director from time to time, updated job descriptions for each staff position in the Planning Department.

#### **Spokesperson**

Section 3.D. of these Bylaws also provides for a spokesperson for the Commission. Make sure the provision in section 3.D. does not contradict with the staff performing that function here. Consider omitting the reference here or editing section 3.D. to make a cross-reference to here (§19.F.4.a.).

#### **20. Adoption, Repeal, Amendments**

- A. Upon adoption of these Bylaws of [date], they shall become effective and all previous Bylaws, shall be repealed.
- B. The Commission may suspend any one of these Bylaws, for a duration of not more than one agenda item or meeting.
- C. These Bylaws may be amended at any regular or special meeting by a two-thirds (⅔) vote of the members present.

[April 30, 2008; Wexford County MSUE CED: C:\Documents and Settings\Kurt Schindler\My Documents\wp\Presentation Handouts\2008MiPlanningEnablingAct\pamphlet1E PlanComm ByLaws.wpd]